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Bitcoin Miner Sued for Unregistered Securities After ICO



Aaron Stanley

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Giga Watt, a startup that held an initial coin offering (ICO) to raise money to build a cryptocurrency mining facility, is being sued for allegedly conducting an unregistered securities offering.

The complaint was filed by a group of plaintiffs that contributed more than \$20 million in cryptocurrency – with a current estimated valuation of \$100 million – during the project's token sale in July and August. In return for their contributions, investors were to be issued either Giga Watt tokens that would grant them exclusive rights to use the company's facilities rent-free for 50 years, or mining equipment and supplies to be deployed and set up by the on-site project team.

Asserting that construction deadlines have not been met and promises to refund contributions have not been honored, the plaintiffs are seeking the return of their investments.

The filing states:

"Many investors [who] have not been issued their Giga Watt tokens or had their machines set up and deployed, fear that they might never be issued their tokens or see their mining machines activated, and are losing valuable time and money as defendants indefinitely delay the further development of the Giga Watt Project."

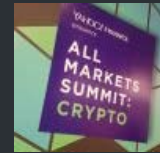
Founded by [well-known bitcoin miner](#) Dave Carlson, Giga Watt aspires to democratize the mining process by creating customized turnkey mining "pods" along with a cheap and stable electricity supply and round-the-clock maintenance at a facility in central Washington.

While the startup worked with the law firm Perkins Coie prior to launch to ensure the tokens would not be considered securities, the plaintiffs are claiming that tokens issued for a pre-functioning network are, by their very nature, securities that must be registered with the U.S. Securities and Exchange Commission, or granted an exemption before they can be sold.

A representative at Perkins Coie declined to comment when contacted by CoinDesk.



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Filed in U.S. District Court in Eastern Washington, this case – and others, including suits [filed against Tezos](#) – could provide an important barometer for how U.S. courts will treat tokens that will have future "utility," but are issued before a functioning network is in place.

"Just because utility tokens might one day have a consumptive use does not remove them from being a 'security' prior to that use," argued David Silver, a partner at Silver Miller in south Florida, who filed the Giga Watt complaint on behalf of the plaintiffs.

The filing also asserts that investors were clearly provided with the expectation that they would profit financially from their investment.

According to the filing, "[S]everal Giga Watt representatives have overtly and unmistakably stated to investors that between the time of the ICO and the date on which each investor would be issued his/her/its Giga Watt tokens, the value/price of each Giga Watt token was anticipated to increase significantly."

Giga Watt did not immediately respond to a request for comment.

Correction: A previous version of this article incorrectly referenced the subject of the lawsuit.

[Scales of Justice](#) image via Shutterstock

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